United States Court of Appeals

for the

District of Columbia Circuit

TRANSCRIPT OF RECORD

IN THE U. S. COURT OF APPEALS

FOR THE D. C.

F 759

P. Carey
Appellant

v.

G. W. University
Appellee

CA-21221-67

PETITION FOR RECONSIDERATION AND/OR MOTION

FOR RECONSIDERATION EN BANC

See attached

This Petition/Motion filed under

Rule 26 of the Rules of t is Court.

I am very handicapped (sight) but I have had to represent myself due to limited funds.
Therefore I have to restort to per page facts instead of adding to paragraphs already written as I cannot see the print to follow the lines.

I was very ill at Hearing on motion to dismiss and the court did not grant continuance. As result proper parties were not before the court.
I will send in this case citation if found in next few days together with "Brewood v. " the oral contract and statute of frauds case."

Defendant's statement and argument in Motion to Dismiss is loaded with descrepancies.

Do they do this to call the court's attention away from the true facts? They have completely ignored their acts of fraud, deceit and misrepresentation.

If the court listens to their statements and arguments filled with descrepancies, then the court will decide for defendant.

BUT IF THE COURT WILL CONSIDER MY STATEMENTS AS SUBSTANTIATED BY THE EVIDENCE OF RECORD, THEN THE COURT WILL MAKE A FAVORBALE DECISION FOR ME.

The facts as I have stated them together with current law, spells out a decision in my favor. All my contentions are supported by evidence of record and current law. In the words of Roosevelt, if the court believes defendant's statement and argument, there isn't a thing I could say.

Again, if the court acts on defendant's false statements, they will decide for defendant school, as in the previous cases recited by defendant which cases defendant won on false testimony under oath in court.; proof of their falsity is substantiated by evidence of record.

1. Contention they gave gra of "Incomplete". Witness stated this under oath in court.

Defense: This was false and proved false by their own records on file in the court exhibits.

2. Contention Witness stated under oath in court, gave only one oral exam. This is false as shown by his own statements dated 1/17/62 and other letters in the exhibits.

Besides proof in his own letter dated 1/17/62, there are other letters signed by defendant, listing the subjects to be covered on both oral examinations. Witness statement was incorrect, under oath in court.

3. Witness stated to me in 1961 and gave word of honor that the slanderous, libelous, defamatory remarks were withdrawn and on this basis I withheld legal action; I had papers all ready to sue but was assured the remarks were withdrawn.

Defense: ; In 12/65 I discovered the witness broke his word, said the same and more and enlarged on it reverted back to papers and ignored fact he gave two oral exams replacing the two papers, Econ 202 and 213 and tried to substantiate the false testimony with false statements under oath in court, and his statements are incorrect and here's the proof right here. See his letters in the exhibits, 1/17/62 and others.

I relied on his statements he withdrew the libelous, slanderous, defamatory remarks to which he gave his word and my tape clearly shows this.

4. Witness promised to speak for me to assist in registration for next class. Promised to call that night and help me register. He was to take all necessary measures to help me register. 12/13/65 I learned he said the the opposite; I didn't learn until that late date that his promise in 1961 was not fulfilled; he did not explain the extenuating circumstances as he promised; said someone else did it.; said he was not doing that; in

As a result, not until 12/13/65, did I discover that defendant had perpetrated a fraud on me by deceiving in 1961

1. said he would explain the extenuating circumstances which caused two U grades, but he did not explain; instead he spoke against me, and I had relied on his word all that time

2. that he had withdrawn the slanderous, libelous, defamatory remarks, and never uttered again and on that promise (and word of honor) I withheld legal action in 1961; then learned in 12/65 he had not withdrawn at all; said the same and more and enlarged upon them;

All that heavy tuition to learn, and look what was done by defendant school to me a handicapped student. All that build up education, earned by climbing four flights of stairs per class night, with heavy equipment, then defendant advanced superficial record, and used that superficial record to bar further study.

5. Gave two oral exams replacing the two papers Econ-202 and 213; wrote letters reiting the subjects covered by the exam; then in court under oath alleged he gave only one oral exam to substantialte superficial record. The statements are incorrect and here's the proof right here. See letter of 1/17/62 and other letters in the exhibits. Defendant used created false record to bar my study in their school; this has damaged me.

Subsequently corrected record in part, as to

Refused to correct the false record when it was
pointed out to them; admitted it was wrong,
promised to correct it but did not and used this
false record to bar my further study.
Efforts to correct it in school, unsuccessful.
efforts to correct it in the court, resulted in their
making false statements under oath in court.
All efforts to correct their false statements no success. Even judge
went along with them and denied relief and ordered no more
pleadings be entered, the most prejudicial act a
judge could fo do.
To date their false statements have not been corrected,
and the judgments they got on their false statements, still stand.
So if the court will consider my side as substantialed by evidence
of recor , see exhibits, then the court will render
favorable decision in my behalf.

Respectfully submitted,

P. Carey

461 H Street Northwest
Apt. 117
Washington, D C
20 001

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Cases:

When defendant is guilty of such a breach
as is here attributable to defendant,
plaintiff can treat contract as broken and
recover amount equal to that he would have received,
had contract been enforced.

153 U. S. 540

If plaintiff relied on defendant's word
in an oral agreement and changes hisposition
materially so that if oral contract is
not enforced fraud results,
oral agreement does not have to be
in writing
and court will enforce oral agreement.

Fraud discovered simultaneously with filing of
complaint prevents running of statute.
see cases in amended complaint and
herein.

Incorporated by Reference:

1. Law, Cases, Facts in Complaints, Amended Complaints, Motions and Memos and all papers in C-3283-66

2. All papers filed herein C-21221 such as

Points

Opposition to Def. Motion to Dismiss etc

3. All papers attached hereto in this paper are made a part hereof.

INDEX TO MOTION FOR RECONSIDERATION AND/OR
MOTION FOR RECONSIDERATION EN BANC

ARGUMENT	Pages
I	
2	13
3	8
	6
4	1
525	
6	18
	1
7	1-19; 20-34b; 50- 72

ARGUMENT NO. 1

Comes now the Appellant, P. Carey, and moves this honorable court to recondider and deny Appellee's Motion to Dismiss, and either remand this case to U. S. District Court for further proceedings or reversed. Case was dismissed by U. S. District Court

I contend that it cannot be said as the U. S. District Court's Order does that the complaint and amended complaint CA-3283-66 does not state cause of action.

I contend that the complaint and amended complaint does state cause of action:

a. Chronological chain of events - see exhibits in case.

b. Proper parties were not before court as I was ill and unable to present my side and court did not grant continuance.

c. Fraud, deceit and misrepresentation.

I was unskilled in university matters and therefore relied wholly, upon the direction advice and representation of the defendant unive university. They knew of my inexperience, my handicap and my complete reliance upon them. They knew of my method of performance in advance

To induce this student to enter into the contract of enrollment in 1961 - 1963 from which damage ensued because of their negligent acts, and irregular acts.

They represented to this student in substance yjsy O was accepted as a handicapped student, using special study equipment for class notes and performance befause of handicap; yet when the equipment broke I was required/expected to perform as a regular student who needed no special study equipment.

They agreed to use of operating equipment prior to registration; subsequently subsequently, they said other students didn't need special study equipment; and asked what are you going to do with the credits?"

Defendant made libelous, slanderous, defamatory statements over phone and in letters.

In 12/61 I agreed to withhold legal act ion in exchange for their promise, word of honor that these libelous slanderous, defamatory statements were withdrawn and never uttered again. On this basis, I withheld legal action in 12/61.. On 12/13/65 (when purchased and r-ad court transcript 1966), I learned for first time that defendant had broken all agreements.

Defendant knew or should have known that these representations were false.

Contract - 153 U. S. 540; Libel - 388 388 U.S. 130:

Defendant cannot plead S. L. when led plaintiff into inaction
14 App D C D C Cas. 696

I relied on these representations and entered the contracts, supra, 1961 - 1963.

I have now learned of the falsity of these representations and by reason of my reliance on the false representations, I paid over $150 tuition, Econ.-202 and 213, and many times that amount for books, supplies equipment, transportation, and subsequent courses and in return, not even permitted a conference in the emergency; denied even civil treatment, libeled, slandered, defamed - see exhibits, deceived, and misrepresented, defrauded.

There are thus alleged in this cause of action, all of the elements of a fraud complaint. Southern Development v S 125 U. S. 247, 250 (188).

I think the circumstances constituting fraud, have been stated with stated with sufficient particularity to protect the cause of action against a motion to dismiss, Rule 9 b d Fed. Rules of Civ. Procedure; Brady v. Gaines 76 U. S. App 47, , 128 F. 2d 754 (1942)

I HOLD THAT THE MOTION TO DISMISS SHOULD NOT HAVE BEEN GRANTED as to a, b, c, above (a Chronology, b. Proper parties, c Fraud etc.).

I contend it should be remanded to U. S. District Court for further proceedings or reversed.

This allegation of the discovery of the alleged fraud,

contemporaneously with filing of complaint

disposes of defendant/Appellee's Motion/Contention based on statute of limit

limitations, D. C. Code 12-201 12-201, (1961),

at least for purposes of motion to dismiss.

C S v. Paramount Pictures 92 U. S. App. D C 347, , 206 F.2d

465 (1953).
Page v. Comert 243 F. 2d 245, , 100 U. S. App. D. C./?31-39.

Incorporated by reference:

All facts and cases in "Points" Filed 10/4/67
"Opposition to Def. Motion to Dismiss Filed 11/22/67 especially Point/error

No. 53 and 54, and Part I, II and VI of "Opposition."

Detailed information is included described papers.

Incorporated by reference is all attached papers

Res Respectfully submitted,

p Emy

Additional Points for Allowance of Appeal:

Exceptions filed 4/12/67:

Exceptions to attorney's statements 4/4/67 Hearing on
Defendant's Motion to Dismiss when
Plaintiff became suddenly ill and interrupted
in presenting her side of case:

Exceptions to attorney's statements:

1. Purpose of suit. It was different
purpose from that alleged by attorney for defendant.

b. Education background etc.
This student is interested in completing her education.

This student has over 24 graduate credits and this is well known to defendant; but defendant recited only undergraduate degree and then jumped with the words "And I might add.." thereby avoiding the answer to court's question, "What is her educational background?" as asked by the court, 4/4/67 at Hearing.

This student has tried in every way to have this matter settled, but defendant ignores all efforts and refuses to correct superficial record etc.

P. Carey

Argument No. 2

Defendant's whole argument is an honest
confession of the way defendat and the courts
have taken advantage,
where I have not had benefit
of counsel..

It is not perceivable how court could hold Statute of Limitations for application when defendant offered to give me my graduate credits earned, 4/13/64 when defendant Motion to Dismiss was denied, when it was clear how they were mistreating a handicap student..

Defendant's offer 4/13/64 acknowledged my claim and tolled the Statute of Limitations See Garfinkles v Needle, 201 F. 2d. 202.

Also the presence of fraud tolled the statute.

Defendant promised

a. To correct the descrepancies and irregularities on my school record.

b. To withdraw libelous, slanderous, derogatory, false statements false statements in my school record.

However, defendant school failed to correct false record, failed to withdraw libelous, slanderous, false statements as promised.

Instead, defendant school repeated same and and more and enlarged on original fraudulent statements..

Defendant entered into a conniving agreement for all of them to follow ~~xxx~~ that pattern and they all did follow that pattern; and as I sought emergency help from first one and then the other, , they followed that conniving

pattern, and I got in their answer the same fraud, deceit and misrepresentation. They used that superficial record to prevent my further study at their school. This while I had sold my furniture to get tuition to attend their establishment. They took my tuition and registered me and then this kind of treatment to the handicap they registered..

They knew I was handicapped, had over 18 graduate credits, they registered me and then

a. Failed to enter my graduate credits on school trans.

b. Promised to correct superficial record.

c. Promised to withdraw libelous, slanderous statements Failed to correct, or withdraw statements as promised.

Defendant's original determination to rescind my school registration in 1963 was false. Defendant knows that determination was false; new determination was due on complete record but they failed.

Defendant's offer 4/13/64 (when their motion to Dismiss was denied) to give me my graduate credits sought, was an acknowledgment of my claim and tolled the statute.

At the Pre-Trial, I advised the judge I had all
the necessary proof and wanted all the
questions settled then; judge noted the large number of
exhibits.; judge noted that usually they
forget to bring them.
Statement after statement we took up at Pre-trial and it was
noted as to whether defendant and I agreed or disagreed.
. When I disagreed, the Pre-Trial Judge
was quick to call the descrepancy to their attention.
Where there was argument, Pre-trial judge took it up and advised defendant
where I disagreed.
When pre-trial was over, we knew where we disagreed and where
we agreed - purpose of pre-trial.; but defendant broke
Rule of court and did not trvphmoxr. pnru pre-trial
requirements.
Defendant
Defendant circumvented pre-trial requisite and neglected
to bring up at all their issues,
at pre-trial as ordered.. If defendant had brought up
the false issues, pre-trial judge could have seen the proof
right there and then and the issues could have been
resolved right there and then, and defendant could
have agreed..
Instead, defendant resorted to more connivance,
more irregularities, deeper into super ficial record,
instead of bringing to the fore the issues in controversy,
the purpose of pre-trial; defendant resorted to

This was against the rules of pre-trial, trial and fair trial.
If defendant was not going to obey pre-trial requisite,
why was there a pre-trial at all.
Defendant ignored the requisite and brought up only a
part and held back the trick and surprise..
It was too late, at the trial for defendant to
bring up new issues; the guiding hand of the pre-trial judge
to sift, ws was not there and unfairness crept in.
I distinctly asked if the trial would be as the
pre-trial and was assured it would be. The pre-trial was in small
room and we sat around a table. I could see defendant
and the pre-trial judge. When judge asked about
my sight problem, defendant attorney said "He did
not know" but judge reminded, "It was obvious."
However, the trial was entirely different; the room was
hugh and I could hear voices but saw no one.
The speaker was moved about the court room; on several
occasions I wanted to speak but was deprived of that
privilege and the proceedings continued over my
objection, or without my knowing the words of the
speaker at the time. Several times judge repeated or
explained and it was assumed, after no relief came, that
judge would repeat that which was important. This
proved to be mistake. Judge did not repeat. Later when I
purchased and read the expensive transcript, I learned for
first time

I learned for the first time of what had been said of much of the trial. It was bad enough not being able to see (sight problem) but when I could not hear, the whole trial was unfair.

Court's opening statment was very prejudicial and indicated which way judge would go..

In 1961 professor B said he would speak for me and explain the extenuating circumstances and help me register for next class.

Then at trial 12/13/65 he spoke against me, and did not explain the extenuating circumstances as promised.. His promise in 1961 was for me; In 1965 after the statute had run, he was against me.

When I heard his libelous, slanderous, false remarks in 1961, I advised him I was going to sue; but he assured me ht withdrew the remarks and on this basis I withheld legal action. When statute ran he spoke and said same and more, and enlarged on original statements.

The law is that when a plaintiff changes his position so materially, relying on promise of defendant, that the promise does not have to be in writing.

The law says that when when defendant makes oral promise and unless that promise is enforced, plaintiff will suffer loss, be damaged, then the court will enforce the promise.

These laws are cited in complaint, amended complaint and other papers CA-3263 1966.

They concocted and connived; they adhered to same erroneous determination made on false record even after I patiently advised of their gross errors, and used this superficial record to injure, distort the truth, and when I went from one to the other of them to get the record corrected and continue my graduate work, they all followed the same pattern and I got the same answer

In CA-578-64 court ruling 12/13/65 was
that the grades were not arbitrary and capricious; that was not the
issue;; the real issue was never answered in CA-578-64.
So what is to be done about that.
I enter another motion right here and now with the request that
, the decision and findings of fa be stricken from record,
corrected, or a new decision and findings of fact be made, and entered. This woul
would be better than leaving the false findings of fact and
erroneous, inapplicable decision on the record in CA
CA-578-64.

Motion for correction of the record
or new decision and findings of fact in
CA-578-64

Comes now the Plaintiff, P. Carey, and moves this honorable court for correction of the record, or new decision and findings of fact in CA-578-64. Decision does not answer allegation that Determination to rescind registration was arbitrary and capricious.

Respectfully submitted.

P. Carey
461 H Street Northwest
Apt. 117
Washington, D C
20 001

Court transcript CA-3283-66 should be corrected to read "Defendant's Motion to Dismiss was denied 4/13/64," instead of what it now reads.

, under Plaintiff's testimony.

Request for correction but to date no correction.

CA-3283-66 court transcript should also be corrected to show Plaintiff was taken suddenly ill during hearing and asked permission of judge to sit down. This correction should be in transcript of the court proceedings.

Judge did not allow continuance and plaintiff was unable to present her side.. Isn't it it true that when plaintiff is not represented by counsel, judge should in emergency grant continuance until plaj plaiff is able able to participate or make other arrangements, for representation, or well enough to protect her rights and present her side.

The law is that proper parties must be before the court.

There was no fair trial here as proper parties were not before the court.. Judge did not grant continuance.

Request has been made for the above corrections in transcript of court proceedings CA-3283-66 but to date no correction has been made.
Plaintiff was suddenly very ill and judge refused to grant continuance, and this prejudiced and deprived of hemyrights .

New trial should be granted, or case reversed. There was no fair hearing, and my rights for fair hearing have ~~xxxxxxxxxx~~ should be protected.

Incorporated by Reference:

1. All cases cited in previous papers such as

a. Complaint, Amended Complaint, Points,

Opposition to Motion to Dismiss, Memorandum of

4/4/67 and 4/12/67, 4/5/67;

also all papers in CA-21221 as well as C A-3283-66.

3. Opposition

4. Points.

5. Papers attavhed hereto, Part 1, Part II, and Part III.

6. All of C-25014-66 Small Claims Court
C-and subsequent appeal in D C Appeals Court 4567.

Points and Authorities:

All cases previously cited in

C-578-64

CA-3283-66

C-25014 and subsequent appeals in D C Court

of Appeals, U. S. Court of Appeals, and U. S. Supreme Court.

Especially cases:

case re: where defendant makes oral promise

and unless oral promise is enforced, plaintiff will

suffer damage.

Case re: Where plaintiff changes position so materially

depending on oral contract of defendant, unless contract is

enforced, fraud will result, that oral

contract is honored and defendant cannot plead

statute of frauds.

P. Emery

Brewood v

ARGUMENT NO. 3

n 578-64
Court's opening statement was prejudicial and indicated which way judge would go.

Judge interrupted interrogation and presentation of evidence during trial; Defendant made false statements under oath, and here's the proof right here.

1. There was no "Incomplete issued for Econ-202 and 213. See school transcript.

2. Defendant did give two oral exams and here's the proof right here. See Exhibits, letter dated 1/17/62.

3. Defendant did libel, slander and defame and here's the proof right here. See exhibits letter dated 3/13/63 and court testimony of 12/13/65 on file in the exhibits, C-3283-66.

Judge permitted defendant to write up findings of fact wrong, see par. findings of fact wrong - see par 4 of Findings.

Judge's decision and findings of fact clearly show that decision answered allegation never made and the actual allegation was never answered. New decision should be made on the allegation made by plaintiff C-578-64.

Judge refused to allow new trial or any relief from erroneous court decision made 12/13/65.

2/25/66 Judge issued order "No more papers filed in this case. This judge went right along with defendant school. This was the most prejudicial act a judge could do. Judge showded her prejudice when she did that.

Judge should be required to withdraw her order of 2/25/66. In this way correction of the false court record can be effected.

Her act was tantamount to acts of prejudice and not a proper order.

Every person is entitled to assert his rights to a court and be heard

Defendant should admit and correct their composed findings of fact.

Defendant school in return for my expensive tuition dissipated my time and not only my effort, but the effort of helpful organizations who made it possible for me to advance to status of PHD candidate: Columbia Lighthouse, President's Committee, Library of Congress, and many organizations throughout the area and neighboring states. In one full swope I was libeled, slandered, defamed, refused conference to point out their errors, and barred from further study by superficial record. In addition defenda t made false statements under oath and all effort to correct those errors by any means has been denied, halted, interrupted, delayed and ignored. Incorrect record was used to make determination to rescind my registration in 1963 and no new determination has ever been made.

Court in C-578-64 construed the allegation as the grades were arbitrary and capricious and thereby in decision answered allegation never made. The actuall actual allegation as made was never answered by the court, i.e., that the determination to rescind registration was arbitrary and capricious. . After being advised of the false record, when school adhered to that same determination, then that determination was arbitrary and capricious, and court should make new determination in C-578-64.

Why would court disregard my rights when I was suddenly ill in court and my side not presented, dut to sudden illness?

Is it not the duty of the court to grant continuance, until such time as plaintiff can participate or make other arrangements to be represented?

I say the answer is yes. The court did not grant continuance.

I don't know why Defendant's motion to dismiss was granted.

There is no opinion in the case.
1. The appeal is not frivious, but on the hand meritorious.

Would you like your son or daughter to spend last cent for education and then be libeled, slandered, defamed and not even permitted an interview in the emergency such as here. Surely a student is entitled to at least civil treatment, and the instruction for which tuition was paid including privilege of use of library and a competent library. You would expect to teach and not blast for not already knowing, otherwise why go to school. You would remind them of social values and that if they want to libel and slander and use superficial records to defame, they must expect to pay "the freight."

2. Claim is not barred by statute because the chronological chain of events kept it open; acknowledgment of claim 4/13/64 when new offer made;

Security for costs filed and entered by court.

Fraud is a bar to the statute of limitations. Fraud discovered simultaneously with the filing of complaint prevents bar of statute of limitations plea in motion to dismiss..

Defendant was given every opportunity to correct and grant cedits; defendant did not correct and caused damage with superficial record.

The Supreme Court in C-378-Mis. decided the case before U. S. Appeals file reached them. I pleaded with them to wait until U. S. Appeals file (for which I paid so heavily wtih my bread money) was received.

I was advised the only thing I could do was to write a letter to the clerk of the Supreme Court. I did this immediately and to date no reply has been received. My claim, my letters have been all in vain. All my effort in the school dissipated. Without benefit of counsel, I have gone to court for relief and defendant and the courts have gone along together.

578

PRJ

FILED

ORDER

2-25-66

In C-578-64 the Judge denied all relief by preventing questions to bring out false record, and prevented showing defendant's false testimony right there in court, with the evidence right in my hand proving defendant's testimony false.
Subsequently, the judge interrupted further questioning to clear the record.
Judge promised opportunity later.
But this opportunity never came. Judge excused the witness before the trial was over. All the fal false statements were permitted to remain on the record.

Judge permitted witness to testify on contents of papers and the papers were not in evidence, and judge did not ask for the papers, or permit me to present secondary evidence. This was error and appeal has not been granted. Judge denied all attempts at Motions to get the false statements, false testimony corrected. Again on 2/25/66 judge issued order, no more pleadings, and to date record is not corrected.

In 578-64 Court's opning statement was prejudicial and indicated which way judge would go. Highschool record was never brought up any place, that was settled before I ever began study; this record was not mentioned except by the judge. That was school determination. I had earned over 18 graduate credits and that was not a factor. It was not introduced in evidence by plaintiff or defendant and it is not understood why it was mentioned. I'm proud of my record and grades. Many students do graduate work who are not in the top ten of their class.

2/64. Defendant fai led to correct record as promised and permitted descrepancies and irregularities to remain on my school record; defendant thereafter used this superficial record to disqualify me from further study.

Now that defendant's failure to correct the descrepancies and irregularities has caused me considerable damage and I have come to this honorable court for relief, this defendant wants this honorable court to dismiss the case.

I repeat: Defendant failed to correct my school record and then promised to correct it but again failed and I have experienced considerable damage; yet defendant knowing of its failure to correct, as shown by exhibits on file herein, this defendant would like a further hurt and deprivation of my rights, and wants court to dismiss the case, while knowing full well I am right, and have rights here, as defendant so acknowledged 4/13/64 when made offer to give me my graduate credits sought, with the further insult condition. "If I agree never to try to register there again" with this defendant dead wrong.

I relied on defendant's promise to correct school record but defendant failed to correct as promised and I was damaged.
Defendant school registered me for a course in "Advanced Adm. Mgm. in 9/63, and then rescinded my registration based on determination the defendant school made on partial record, an incomplete record, incorrect, false, superficial record; When I pointed out the descrepancies, and irregularities, defendant owed me a new determination on my complete and correct record; defendant school admitted after determination "I didn't realize you had so many graduate credits." Yet defendant turned around and adhered to same determination made on partial record, superficial record. Then when I asked the court in CA-578-64 for relief, court answered allegation never made, i.e., that the grades issued were not arbitrary and capricious, and neglected to answer the actual allegation made, that the determination to rescind my registration (based on false record) was arbitrary and capricious (Note they failed to correct that record and determination even after given 2nd chance.), to correct the descrepancies and irregularities, on my school record.

Defendant promised to explain extenuating circumstances which caused the two U grades on my school record. However, this promise too was ignored and the next thing I knew there was further reprimand for this, due entirely to circumstances over which I had no control and defendant well knew t knew this..

Note defendant promised to correct but did not. This act

This act where defendant failed to do what promised to do, constituted fraud.. Dean Ruth, Burns, Angel promised to correct.

I relied on defendant school promise to correct and to my detriment.. I contend this was misrepresentation, misrepresentation, deceit and fraudulent act..

Part of the record was corrected but part left uncorrected and false.

On this superficial record defendant made determination to rexcind my registration and ignorred errors they made.

Defendant set a conniving pattern and they followed this pattern as I patiently, and conscientiously went from one to the other of them to get the false record corrected. They connived and worked out among themselves and used superficial record to disqualify me.

After they registered me for the course in 9/63 I experienced terrific expenses for supplies, equipment, talking books etc.

. Subsequently they used superficial false record as alleged basis for following pattern to get disqualifying results..

Even after the descrepancies and irregularities
were pointed out to defendant school, there
was no apology or effort to make amends.
Regognition of my rights came when they tried to dismiss
4/13/64 and their motion to dismiss was denied.
They made offer of the sought graduate credits. That was their
first recognition of my rights.
This recognition tolled the statute, as in
201 F. 2d. 202.

I asked for explanation of the offer. To date there is no reply..

They said we going to answer you and case wont come up until way next fall under another judge. That was 4/13/64 and case did not come up until 12/13/65,

the next Fall, just like they said. "under another judge."

.

In 1961-62-63-64 -65 they used superficial record as alleged basis for following pattern to get their desired results.

. My rights were ignored.

Their promises made were broken. I relied on them and was damaged.. They failed to correct as promised.

As result I was damaged..

Over and over they refused conference. Note, one conference would have

One conference would have resolved the entire controversy. But this was denied over and over.

1. Defendant promised to correct descrepancies and irregularities on my school record;
I relied on that promise; defendant failed to correct my school record as promised..
Thereafter defendant school made determination to rescine my registration; when I pointed that they used partial record, incomplete record ~~and~~-- but they did not make new determinatio;.; they adhered to same determination made on superficial record.
When they adhered to same det rmination, that determination to rescind, was arbitrary and capr cious.
when I first pointed out errors and gave them chance to correct that was not arbitrary. But when they adhered to same determination and refused to correct erroneous, superficial record, then that determination was arbitrary and capricious. Correction as been requested but to date none. It is requested this court ask them to correc t it now..
Note, they corrected record in part, but used same part on making determination to rescind.. They corrected F grade with honor grade of S. But correspondence and reports still reflecting F, have not been corrected.
Explanation, as promised of the two U grades for 202 and 213 have not been made. The two U grades are on the record with no explanation as promised, to show the extenuating circumstances.

P Ewy

ARGUMENT NO. 4

I had an interview with Dean Ruth and he promised
he would assist me in registering for the next course.
I pointed out the irregularities and he promised to
help. He told me to submit an application and
he would see what he could do.
I talked with another official and he too promised to help.
But there was no correction of the record and no assistance.

As directed by defendant University, I submitted application and was registered 9/63.

Thereafter, when it was too late to enter another college this defendant university rescinded my registration and caused me considerable damage.

I gave up opportunity to enter another school, and had purchased supplies, equipment, books, machines and made advance preparation of talking books for the course.

Upon investigation I discovered descrepancies and irregularities on my school record, the same incorrect, incomplete record on which they based their determination to rescind my registration contract.

Immediately I pointed out the descrepancies and

and irregularities

In 2/64 I discovered irregularities and descrepancies in my reccord. I pointed this out and was promised the record would be corrected but it was never corrected.

I was promised the descrepancies and irregularities would be corrected but in 2/64 I discovered they were not corrected. I submitted evidence of my list of completed graduate credits; I was advised defendant did not know I had so many graduate credits, or an admission that they did not have my correct and complete record before them when they made determination to rescind my registration.

A new determination was due by the defendant school on the correct and complete record, my record.

The descrepancies and irregularities were not corrected as promised. No new determination was made and defendant school adhered to same erroneous determination they previously made on partial incomplete, incorrect record. The list of graduate credits about which defendant did not know, as defendant admitted, were not considered in their first determination t o rescind my registration in 1963 on course in advance Adm. Management I requested and expected defendant to make a new determination. I pointed out that the determination previously made was made on improper record and therefore not on proper basis

It was not a fair determination and by their own admission, said it was made on partial record.

I had relied on their promised to correct the descrepancies and irregularities.

In 2/64 I discovered that defendant school correct their determination to rescind my registration , or the descrepancies or irregularities.

In 12/65 I discovered that defendant school not only neglected and failed to correct the descrepancies and irregularities on my school record as promised they would do, but they also went further and used this superficial record to prevent my further study.

In 1965(1966 when I purchased the court transcript and found that they had not corrected the descrepancies and irregularities as promised, and as I waited, patiently for them to correct, and as assured by school officials that they would be glad to correct), I discovered that these were acts out of which claim for fraud, deceit and misrepresentation arose.

Re: Defendant Attorney's Statements CA-21221 Motion to Dismiss:

He is making an honest confession that I
have been taken advantage of by the courts without benefit of
counsel

P Eng.

ARGUMENT NO. 5

Defense 1. Appeal is not frivilous and does state a substantial question of law and fact. It is meritorious and should be heard. So far the court has heard only one side, the defendant's side as defendant was heard first at Hearing on Motion to Dismiss. Plaintiff was suddenly ill and unable to present her side. Court knew this because I asked for permission to sit down before I fell bailff or clerk brought chair. Proper parties were not before the court as required by law, as I was very ill and unable to participate. Court should have granted continuance until I was able to present my side or make other arrangements. Unless the court hears my side, the court will know only one side. This was not fair trial as prescribed by Constitution and laws of the U. S. Case was not barred by Statute of limitations as chronological chain of events clearly shows continuous negotiations; new offer made by defendant 4/13/64 tolled the statute; Fraud present, also bars defendant's please of Statute of limitations.

2. $250.00 has been filed for costs and defendant has agreed to make every effort to keep the cost down. Defendant has also agreed to join in joint appendix with me, if motion to dismiss by defendant, is denied.

Statement of Case. After it was learned that the graduate credits sought by suit C-578-64, were denied by school and court (after defendant made false statements as proved by the evidence of record), I was damaged. This was finalized by supreme court action in 1967; decision in U. S. District Court 12/13/65..

When I purchased and read the court transcript, I learned for the first time and had first hand knowledge of what was said at trial 12/13/65, as I could not see or hear at trial. I asked for new trial on those grounds but that was denied.

I discovered that these were acts out of which calim for fraud, deceit and misrepresentation arose. I filed an action against appellee in U. S. District Court for the D. C. 12/13/66 because of the damage which ensued when I did not get the graduate credits earned after enduring such trying circumstances.

Defendant school registered me as a handicap for the course and I incurred considerable expense for books, supplies, study equipment, advance talking books and set out to earn the highest grade with ideal conditions such as transportation, class room, books, readers, helpful students, good professor and suitable living quarters; conditions previously deprived in prior courses in less than ideal conditions; shortly after registering me for the course and after it was too late to enter another college, defendant undertook to rescind my registration and leave me with all the loss

for expensive books, supplies, study equipment, readers, advance talking books, transportation and loss of time from graduate study when time was of the essence.

The action was CA-3283-66

I alleged that in 9/63 I was registered by the G W
University officials as a handicap student and purchased all the necessary
operating equipment supplies, books, papers, special
pencils, advance readers, text, books, paper etc; shortly after the
registration by G W U. officials, and after it was too late to enter
another college, this registration contract
was rescinded by defendant, with all the
advantages on defendant school's side, and no
thought to the loss and damage caused to me for the
enormous expense incurred, or the loss of time from graduate study;
defendant was dead wrong, and continued to be obstinate and
even refused conference. As if $73 was even a drop in the bucket
compared with the terrific expense experienced for items of
supplies and transportation because of sight handicap, defendant made a big to d
their return of my tuition. No thought to my list of expenses for
major items to set out to earn the highest grade.
"They could care less." The big gouge I incurred and
the damage from loss of time and credits was ignored by
defendant school, master on human relations, but don't
to use famous expression "Don't practice what they preach.". What good was

was the fine name school I selected. I was mistreated and hurt as if they inherited the right to dissipate my time and caused me expense and damage. I was refused conference or explanation.

The determination to rescind my registration, for the alleged academic deficiency was deliberately based on incorrect record and the erroneous determination, which defendant had plenty of time to correct, but neglected to do so, resulted in loss and damage to me, a student struggling against every odd to complete my educationThis wexs due to the negligence and irresponsible acts of appellee as well as omission to act, the responsibility for which they are charged. I sought damages in sum of $15,000.

As usual defendant made no effort to make amends or to grant my rights, but on 12/29/66 appellee moved to dismiss the com- moved to dismiss the complaint and alleged mind you that my rights to bring the action was barred by the statute of limitations. Barred by the statute after defendant had:

1. promised to withdraw the libelous slanderous statements made in 1961
2. Correct the false school record.

Instead, the defendant school:

1. only gave word of honor that libelous slanderous statements were withdrawn, and after statute ran, then said the same and enlarged upon the statements, after calendar showed safe within the boundaries of legal limitation.
2. Did not correct the false school record and instead used that superficial record to disqualify me from further graduate study and to date have not corrected the false school record.

On 1/20/67 I filed an amended Complaint which because of of the acts out of which claim for fraud, deceit and misrepresentation arose, listed the acts, and sought $500,000. damages.

On 2/3/67 appellee as usual moved to dismiss the amended complaint, as usual stated it was barred by statute of limitations. No move by defendant school to confer about the damage caused or the terrific loss in money and time from graduate study. Imagine, this is a school acting like theis. A school where I paid heavy tuition and earned over 15 graduate credits; a school that helped me register and then turned around and rescinded my registration without conferring with me about any part of it

And all the time my school record is thick with defendant's errors for which I was charged. For instance a false F grade, accusations of a slanderous libelous nature; defamatory statements and all the time me, a paying student, tripped every step of the way.

See the exhibits.

At the Hearing on Defendant's Motion to Dismiss 4/17/67, defendant made many errors. When asked for my educational background, defendant recited less than the truth. If he was not familiar with my educational background in beginning, he well knew of it later and especially by time of this Hearing 4/17/67. And Court does not have the right information on this question.

Defendant went on with irrelevant and immaterial statements.

When it was my turn to speak, I started telling the Judge about my side but was interrupted by severe illness and had to ask permission to sit down, clerk brought chair. Court transcript fails to reflect record of this illness. Court refused to grant continuance and my side has not been heard. Now listen to defendant state "After a Hearing on the Motion, court entered an order on 4/17/67 dismissed the two complaints. Note, defendant does not mention my illness or that the court refused to grant continuance until I was able to present my side or make other arrangements..

On 5/17/67 I filed a notice of appeal from this decision..

I have also filed the court's requested sum for costs. This was offered and accepted in cash.

ARGUMENT:

L. Statute of Limitations does not bar complaints as alleged by defendant.

It is Appellant's contention that Appellee is wrong and that Appellant is not barred from maintaining this action bedause the Statut- statute of limitations is not applicable here

Section 12-301 D. C. Code, 1967 edition states in pertinent part as follows:

"Except as otherwise specifically provided by law actions for the following purposes may not be brought after the expiration of the period specified below from the time the right to maintain the action accrued: * * *

" (8) for which a limitation is not otherwise specifically prescribed - 3 years."

Therefore, it is my contention that "It is otherwise specifically provided by law.."

Fraud discovered simultaneously w t with filing of the complaint is bar to plea of statute of limitations.

One fact is clear from the complaints, that is that the defendant's acts of ommission and commission, fraud deceit and misrepresentation that occurred from 1961 to 1965; not just in 11/63 when defendant ignored my rights and rescinded school registration with utter disregard to whether I suffered sever loss and damage from their default.

It is equally clear that that defendant had every opportunity to correct the disputed recort as promised but failed to so do;

defendant also had much time to withdraw the libelous, slanderous statements, defamatory statements, incorrect records, but failed so to do as promised and as defendant gave word of honor would do, but failed to so do.; that's fraud. ulent act.

Accordingly, claim filed 12/13/66 and subsequent complaint is not barred by statute of limitations, in view of the fraud involved. Thus Appellant is not barred from

~~maintaining this action~~

Thus appellant is not barred from maintaining this action., ad fraud is a bar t bar to the statute of limitations;

besides the fraud involved, defendant 's acknowledgment of claim 4/13/64, when defendant's motion to dismiss was denied, that acknowledgment tolled the statute of limitations; That is the 2nd reason why claim is not barred by statute of limitations.

3rd reason is that proper parties were not before the court, as appellant was very ill

Thus defendant's citation Section 12-301 of the
D C Code, has no application here, as

1. Chronology 1961 - 1965 chain of events bars statute
2. Also fraud is involved.

Fraud discovered simultaneously with filing
of complant bars statute of limitations.
Fraud discovered simultaneously with filing complaint
bars statute.

Damage was not known until
graduate credits sought were denied by court.
So how could defendant say "Any attempt by appellant
to excuse her failure to file the
complaint because she was either unaware
of universitity's determination
to rescind her registration or unaware of her rights to file suit
within within 3 year S. L. must necessarily fail, in
view of her past action." Note defendant has completely
overlooked its acts of fraud, deceit and misrepresentation.

12

Note, defendant has overlooked that fraud is
a bar to statute of limitations.
The law states and I quote, that
"Discovery of fraud simultaneously with filing
of complaint, is bar to statute."
cases cited in Amended Complaint, incorporated by reference here.
Besides defendant's acknowledgment of claim 4/13/64
bars statute of limitations
201 F.2d 202 Garf. v Needle.

I filed suit against defendant school
in March 7, 1964 but it was not the same
incident at all as alleged by defendant.
In that suit, C-578-64, I had faith in defendant school
and believed as I was told that once they knew of their
error they would be glad to correct errors. But defendant
did not correct anything. I sued then for
specific performance of contract of enrollment as I
wanted my graduate credits. When I did not get those
credits, I was damaged by loss of
outlay of expenditures to accomplish the
performance, and time lost from graduate study. What an
accomplishment for a school to set out to trip a
handicap they have just registered in their school, and
close their minds to the harm, damage loss they are
causing by their deliberate act.
So attention of this honorable court is called to fact that subject
as alleged by defendant. Had the graduate courses been
granted by court, no damage would have ensued.
So you see defendant school is wrong here.

Defendant has ~~seen~~ construed this t

Defendant has construed this as a suit "to reregister her in the course for which her registration had been rescinded." I had a registration contract and I asked the court to enforce that contract. The court 4/13/64 refused to dismiss the case as defendant requested and did not let them further take advantage of a handicap because he saw the mistreatment I had received. Carey v G W U, C- 578-64, Judgment for Defendant on 12/13/65 in U. S. D. C., after defendant connived with avoiding answering questions and issuing false statements, upon which issue was taken but never corrected. Appeal dismissed by U. S. Court of Appeals for D C Circuit 7/19/66. C-20106 Cert denied, Sup. Ct. 1408-Misc 4/17/67

Defendant alleges that that original case for equitable relief was based on same facts that appellant for equitable relief was based on same facts that appellant again was based on same facts that appellant again sets forth in instant case, except she now seeks money damage money damage instead of equitable relief."

That allegation is not a true allegation.

No damage until graduate credits were withheld.

Then damaged. When damaged, wants damages.

So defendant is wrong in this point.

Had the school afforded equitable relief,
money damages would not have been necessary.
So defendant is wrong on t t is
this point.

I filed suit against Appellee 12/13/66
in the Small Claims and Concillation Branch of D C Court of
General Sessions for $140 representing
return of tuition on two courses (Econ-202 and 203)
which could not be completed because
defendant school's weak library. (See Exhibit
Weakness of school library). The school library's lack
together with mal function of my study equipment
were circumstances beyond my control. Defendant
promised to explain the extenuating circumstances and help me register
for next course, and to withdraw the slanderous
libelous remarks made about my two book reports;
But these promises were broken. Fraud.
Yet defendant attorney states, please note, that I failed
these courses.
Professor in the two courses gave me two oral exams, replacing the two
book reports. , and here's the proof right here.
(See Professor's letter dated 1/17/62
in the tuixxxxx Exhibits filed in case.
Defendant left errors on my school record
and used this superficial record to bar, disqualify
me from further study.. When I learned
this, I asked for my money back on the two courses.

I have never failed any courses at the university. Professor knew of my handicap and my complete dependence on the study equipment for performance. Yet when the equipment broke, he expected, demanded that I perform as a regular student who needed no study equipment. He said "Other students did not need study equipment."

Wouldn't you ask for your money back after being told that besides being slandered and libeled, defamed by an establishment to which you went for guidance and help and paid expensive tuition because of their alleged high standards? But note defendant has not mentioned my good record or the school weak library. No explanation and points to failure as if this was a careless student who did not study.

It must be pointed out how defendant has now stated "This suit ultimately dismissed as being barred by statute of limitations.

(Carey v G W U C-25014-66; Rlease note defendant has omitted important facts:

I received Judgment by Default. It was snowy day and defendant did not appear. Next day defendant filed Motion to Vacate judgment.

Service was good as defendant business office received the notice 12/22/66 and case was not until 12/27/66. However defendant did not show.. If they had any thing

If defendant had anything to say, defendant
should have said it 12/27/66.
Small Claims Court Rule 8 states that
"Default Judgment will not be set
aside when service is good..."
Service was good.
It was delivered and signed for 12/22/66 and
signed for by official and
proff proof of this service is on file with the court.
There was no good reason why motion to vacate was granted.
On defendant's motion to vacate, I was never heard.
Nurse came and helped me, I was very ill.
Defendant came in court room and, knowing full well,
that I have sight problem, and handed me a questionable
affidavit.
Before I could have anyone read it to me,
defendant took stand and recited irrelevant
facts. When I was well enough to speak,
I asked for continuance and it was granted.
Yet there was never trial on motion to vacate
continued.
Case was tried on motion to dismiss.

Defendant came to me in court room and
and the next thing I knew my case was
upstairs before another judge.
So far as I could see, it was only
me and the attorney and judge present;
not like the court room down stairs where there were
other people present.
Judge did not hear motion to vacate.
I was deprived of hearing on defendant's motion
to vacate.
Judge went on with hearing on
motion to dismiss.
Defendant attorney went on with
irrelevant facts.
The judge went along with him.
I was not represented by counsel.
Previous judge tried to get me an attorney,
but defendant attorney interrupted.
The big name school again convinced
the judge and the judge gave them the
decision and motion to dismiss was granted,

My side was never heard on
a. motion to vacate
b. Motion for new trial
c Motion to set aside Ord r granting
Motion to Vacate
d. Motion to dismiss
My motions were never filed. I inquired and no
one knew anything about where or why
not filed.
Was that a fair trial? I say no.

Application for allowance of appeal denied

2/15/67 C3451 original, D C Appeals;

Petition for allowance of appeal, denied
U. S. Court of Appeals for D C Circuit, C-20802
4/7/67
Cert denied Sup. Ct. of U. S. 378-Misc 10/9/67)

The files and records of of U. S. D. C. Court and

U. S. Appeals Court, demonstrates beyond any

reasonable doubt that appellee
connived, deceived and misrepresented and here's
the proof right here in the exhibits.
(see exhibits on file with court)
Defendant knows that when I did not get my
graduate credits, that I was damaged and
ybhat is a good reason and a good time
to seek damages, right after damage.

One cannot ask damage prior to finalizing of that
question.

Facts contained in complaint and amended complaint could not be
dealt with until discovered; discovered
in part in 2/64 andd and 12/13/65
by means of court transcript purchased in 1966.

These facts could not have been known until
trial 12/13/65. So defendant
is wrong here too.

Fraud was discovered in part 2/64 and 12/13/65
and suit could not have been brought prior to that date.

I knew the defendant promised to correct the record and failed to do wo so.

The university's position in regard to my academic standing and eligibility was based on list of irregularities and descrepancies and was up for correction.

How could defendant say I knew the university's position in this respect, when the university's had not made the promised corrections on my school record. I could not assume they would make determination on superficial record. But this they did. So defendant is wrong again.

In March 1964 I had recently learned that defendant said "I didn't realize you had so many graduate credits!."
No new determination was made after discovery and presentation of evidence of my many graduate credits.

No new determination after errors were pointed out for correction.
Correction was promised but none.

Withdrawal of the libelous slanderous remarks were also promised, but not. Result: Fraud.
So defendant is wrong again.

I seek redress in this court.

Statute was tolled by Fraud

Statute was also tolled by

new offer, acknowledgment of my claim
4/13/64 when defendant motion to
dismiss was denied and defendant made new offer.

Law suit, C-578-64 shows I claimed specific
performance of contract of enrollment to get my graduate
credits due me; when these credits were not
granted by school or court, I was damaged.

That decision was 12/13/65.

2. Funds for costs have been filed.

Defendant has agreed to keep costs at minimum.

Defendant has also agreed to join me in joing
appendix when their motion to dismiss is denied.

Defendant's motion to dismiss should be
This defendant's motion to dismiss should be denied:
1. I have filed covering costs as required by Rule
73 (c) of Fed. Rules
of Civ. Procedure

The Beecher case court expression comment

Appellant is not a lawyer and has been inclined

to assert that his rights are bounded only by his desires.". The first ti... heard this over 20 years ago, I did not

think much of the expression.

And certainly not applicable here.

Whether defendant recognizes it or not, My accomplishments deserve commendation. I was tripped and the body to whom I went for help, only hurt me further.
I am sorry defendant has thrown cold water in my face, when they could have been earning their tuition, expensive tuition which I could put to good use otherwise. It was not fair to dissipate my energy and my borrowed funds in this fashion.

It is respectfully submitted that appellant should have had day in court but did not.

1. I was deprived of hearing on Motion to vacate in C-24014-66

2. I was very ill in court in C-3283 and no opportunity to present my side; judge did not stay the proceedings, until I was able to present my side.

3. I was denied continuance, new trial etc.

Defendant wants litigation to end quickly; It did not have to start you know; defendant could could have been forthright and corrected the school record. But defendant did not correct and here's the proof right here.

Defendant used this superficial record to disqualify me from further study, and should be made to pay the freight. I was damaged when my credits were withheld and that was decided 12/13/65.

Appellant submits that the court cases clearly show that statute of limitations is barred by fraud in this case; and by new acknowledgment of claim 4/13/64.

Wherefore, for the foregoing reasons, Appellant prays that Defendant's motion to dismiss, be denied.

Respectfully submitted,

P. Carey
461 H Street Northwest
Apt. 117
Washington, D C
20 001

P Carey

ARGUMENT NO. 6

Re: CA-578-64 and CA-3283-66
Court Transcript of CA-578-64 and
Court Transcript of CA-3283-66 filed
in CA-3283-66 together with all Exhibits

Case is not barred by Statute of Limitations and should not have been dismissed for tha t reason or any other reason.

Defendant testimony in above cited cases and court transcript is false:

1. Testified gave "Incomplete" and school transcript clearly shows no "Incomplete" issued.

2. Testified gave ~~txcax~~ only one oral exam and record clearly shows two oral examinations, and here's the proof right here. (See Exhibits professor's letters of 1 /17/62 and others)

3. Slanderous and libelous remarks, in letters and testimony that were false and damaging and here's the proof right here. (See Exhibits on file , letters and book reports)

4. Findings of Fact, par. 4 and other parts false. Did not answer the allegation that "Determination to Rescind Registration contract was arbitrary and capricious. Instead, answered allegation never made that "Grades were arbitrary and capricious". Requested co rection ignored and to date not made.

Decision cited in CA-578-64 12/16/65 as defendant admitted is not applicable.
Allegation in CA-578-64 is that "Determination to Rescind Reg. Contract" was arbitrary and capricious." But that allegation was ignored and defendant and court answered allegation never made.

Incapacitated from the mistreatment 1961, 1963 and 1965 repeated.

Sudden illness in court 4/17/67 prevented presenting my side and justice in the case.

I represented myself.

Lack of sufficient funds prevented hiring counsel.

Motion to Dismiss was not proper in this casee
becauso of

1. Chronological Chain of events which kept the statute from running. See correspondence from 1961 - 1965. Irregulararities were discovered in 2/64 when Defendant said "I didn't realize you had so many graduate credits; this was admission that my complete record was not considered when determination to rescind my registration was entered. This was fraud in 2/64; instead of explaining the estcnuating circumstances as promised to me, there was no explanation and the incorrecct record (Omitting my earned graduate credits, using false F grade not on my record and subsequently corrected; including other gross false errors)

2. Fraud - Pre-trial proceedings were intended to include everything at trial; this was deceiption as the introduction of the professor's testimony 12/13/65 was out of line, and not included at pre-trial. Defendant will recall, I had all papers present at pre-trial and so recited to Judge and pointed to the evidence on hand; but defendant deliberately circumvented professor's testimony at pre-trial or it could have been agreed to or disagreed to right there and then as were the other items discussed. Therefore, the professor's testimony and the false statements had no place at the trial; they are not in any respect privileged. The f fraud discovered in 2/64 and 12/13/65 prevents running of the statute of limitations.

The 1961 libelous and slanderous remarks (see exhibits) were withdrawn. The Dean gave his word of honor on this. The dean also promised to speak for me and help me register for next course. I have this evidence. The Dean promised to explain the extenuating circumstances which caused two U grades on my record because he knew first hand that my study equipment broke and he knew when he registered me for his two courses 202 and 213, History of Economic Thought that I was to use this equipment. When it broke my performance was blocked, on his two courses. I have my school transcript which clearly shows I accomplished 18 other graduate credits. There is no indication he explained anything as promised. In 1961 a terrible emergency arose but defendant school ignored the emergency and wrote slanderous libelous statements; When promised they were withdrawn I withheld legal action. In 1965 1964 I discovered false records; In 1965, safe within the bounds of legal limitations, defendant said same and more slanderous, libelous remarks; safe within bounds of legal limitation, defendant repeated and enlarged on that which alleged withdrew in 1961.

Evidence of record for 1961, 1962, 1963, 1964 and 1965 clearly shows the deceit of withholding information and not revealed until 1964 and 1965.

At trial 12/13/65 professor admitted "Incomplete" Mark should have been on my school transcript; however no such mark was on my transcript, proving he did not give "INCOMPLETE" mark as requested. I have mark of "Incomplete" for another subject and it is clearly on school transcript. But no "Incomplete" mark was given for either 202 or 213 courses.

Professor by letter of 1/17/62 and other letters, see exhibits, clearly listed subjects to be covered on two oral exams which replaced two papers; it was either exam or book reports; in this case he withdrew slandc libelous remarks and offered to give two oral exams, which offer I accepted and took two oral exams as he offered. And here's the evidence right here in thee exhisits exhibits; so why this contradiction by profesxxxxxxxx defendant. Professor did give two oral exams and here's the proof right here. (see exhibits).

Judge in CA-578-64 halted the proceedings and would not allow clarification; prevented continuance of presentation of evidence by letters and reports to support my contentions; court prevented presentation of evidence and

wouod not acc.ept my allegation or proof that the professor that professor did give tw- separate different oral examinations Econ-202 and 213. and l.. ..etters dated 1/17/62 and others listed the subjects which I was to study for sa said oral examations. on the two course s 202 and 213.

Request has been made for correction of the Findings of Fact, paragraph 4 as it is an incorrect statement and answers an allegation never made. To date, no correction has been made.

Case cited in CA-578-64, as admitted by attorney
is not pertinent.

My allegation was that the determination to rescind my registration
at the school was arbitrary and capricious.
They owed me a new determination on my correct record,
after they discovered they made determination on
incorrect record; they should have also corrected their false record
when advised instead of letting it stand to prevent my further education.
The finds of fact par. 4 is wrong.
Thia ahou d be corrected along with the decision.
It is not a fair trial to permit findings of fact to be
sfi to be written up wrong.

Every college is charged with the responsibility of

counseling for instructions when

in emergency when the unforeseen circumstances arise..

In 1961 when an emergency arose (mal-function of my study equipment)

I sought an appointment for conference. This was denied. I tried over and

over but was ignored.

I had no one or group to which I could turn for advise or help

in the emergency. As a result the slanderous, libelous remarks

hurt me very much. When assured they were withdrawn

I withheld legal action. Subsequently in 1964 and 1965

I learned of the acts of fraud, deceit and misrepresentation.

There is no basis for

granting motion to dismiss.

Court gave no explanation as to why dismissal action was taken.

There is no basis for dismissal action.

The Dean's False testimony was not mentioned
at pre-trial. Had it been mentioned, proof could
have been furnished then, that it was false and proof was right
there to prove that it was false and I so told pre-trial
judge that I had all information; but it was
dodged and this is not fair; pre-trial
is for that purpose and it should have been brought up
there for agreement or disagreement right there and then.
This is serious and should be corrected; and I have so requested
but to date it is not corrected.

No basis for dismissal action.

Court has never indicated why why doing that - dismissal action. There should be some explanation as to why in order that proper action may be taken for reconsideration.

I was very ill at the trial and asked for continuance and
continuance should have been granted in order that
I might protect my rights by presenting my side.
It is not fair trial when one party
only, is represented, and presents its side.
Both parties should be heard for a fair trial.
Under the constitution and laws of U. S.
fair trial is assured.

School concern should have been expressed
by calling this student in and apologizing for their blunder
and deliberate fal false records, especially after I graciously
tried and gave them every opportunity to correct their numerous
errors. Instead of this EXP TED CONCERN, this school has
ignored and ignored doing anything about their false records and
the subsequent damage it has caused this student.
Now they want the co t to dismiss this student request
for relief by this honorable body.
In school, when every one else was doing their pa t,
this school was busy trying to prevent further study, instead of
setting about to earn the tuition collected.
Rolling with the punches only meant more rolling with more punches.
They have never so much as discussed the matter or attempted to
correct their false records or make amends for the harm,
libel, slander, damage caused.

Incapicitated from the defendant's mistreatment 1961 - 1963 and in 1965 repeated Cause of sudden illness in Court 4/17 /67 and this prevented presenting my side and the justice to be done in the case. Lack of sufficient funds prevented hiring counsel and I represented myself.

Motion to dismiss was not proper in this case because of

1. Chronological chain of events which kept the statute from running. See correspondence from 1961 - 1965

2. Fraud. Irregularities were discovered in 2/64 and defendant promised to correct. Corrections were never made. Defendant admitted that my correct and complete record was not considered when determination to rescind my registration was entered.. This was fraud in 2/64; instead of explaining the extenuating circumstances as promised, there was no explanation and the incorrect record (plus omitting my earned graduate credits, plus using false failure grade, not on my record, and corrected in part after I was seriously damaged; including other gross false errors enumerated elsewhere in case)

Fraud - Pre-trial proceedings were intended to include all issues at trial; There was deception here as the introduction of the Dean's testimony 12/13/65 was out of line and not in issues permitted at pre-trial proceedings Defendant will recall that I had all papers present at pre-trial, taken along at considerable expense and unusual inconvenience, and

and pointed to the evidence on hand. But defendant deliberately circumvented Dean's testimony and mention of the papers to be introduced at trial, and the issue of a. two oral exams, b. "Incomplete" course grade, c. allegation of one paper submitted, Had defendant brought up the issues then at pre-trial, he could have been shown right there on the spot where he was wrong at pre-trial proceedings, just as the other issues mentioned were agreed and disagreed before pre-trial judge and noted. For instance when defendant mentioned my list of graduate credits, I immediately pointed out to pre-trial court judge that I did not agree with list of graduate credits defendant school presented and at once recited the credits defendant had omitted. This afforded opportunity for pre-trial judge to call this to defendant's attention right there on the spot. As result when it was later brought up in subsequent trial, this preparation in turn permitted opportunity to quickly answer this issue.

In like manner, Dean's statements could have been cleared at pre-trial proceedings; Dean gave no "Incomplete" and I had the records right there to show it at pre-trial (also at trial 12/13/65 but was prevented).

b. He gave two oral exams and I had the records right there to show it asnd also at trial but was prevented.

Dean made unnecessary libelous, slanderous statements and I had the records right there to prove it at pre-trial, but the issue was not calendared in the issues at pre-trial; so why was it permitted at trial subsequently on 12/13/65. I had all those papers, reports, statements everything and so recited to pre-trial judge, but defendant school did not include them in the issues; defendant was therefore barred from issuing them at trial. Court erred at trial by permitting these issues, not covered at pre-trial; court also erred in permitting testimony on papers not in evidence, on contents of papers not in evidence, and the papers were different; judge prevented my subsequent testimony and clarification on this uncalendared issues, not at pre-trial. Accordingly to this pre-trial was purposeless. Defendant broke all the rules of pre-trial. When defendant agreed to withhold, withdraw the libelous slanderous statements in 1961, on this condition I agreed to withhold legal action in 1961 - based on this agreement. Any dispute on these matters, clearly should have been brought at pre-trial proceedings Failing to bring these issues at pre-trial was serious error and should not have been permitted by trial judge, 12/13/65 and should now be called out, stricken from the record; this would permit justice.

Therefore the Dean's t stimony and the false statements have no place at the trial; they are not in any

respect privileged.

The fraud discovered in 2/64 and 12/13/65 is a bar to running of statute of limitations

Safe within the bounds of legal limitation, defendant repeated and enlarged on the libelous, slanderous defamatory statements made in 1961, and said more libelous, slanderous, defamatory remarks. It is requested that this honorable court deny defendant school's motion to dismiss and hear this case on its merits, or reverse U. S. District Court decision as court did in Brady v. Gaines, and Page v. Comert, previously decided in this court on fraud.

I am conscientious about the course work I undertook at great expense, climbing four flights of stairs with heavy study equipment and up all hours of night, holidays, week-ends slaving to accumulate credits and then defendant in one full swope, issue superficial record, refuse to correct it, and then use superficial record to convince and prevent further study. It is not fair to permit school to cover and run. They could sit down correct the record and amend the damages.

I submit, here was clear infringement on my

rights as a student

P. Cain

ARGUMENT NO. 7

ARGUMENT NO. 7

Part I

IN THE U. S. COURT OF APPEALS
FOR THE D. C.

P. Carey
Appellant

CA-21221-67

v

G. W. University
Appellee

Part I

We have long needed another school.

New York has a city college..

Not every graduate wants to do advanced study. The small percentage who want to qualify should be given proper consideration..

Recently the following article was in local newspaper.

A Community College

THE tortured efforts to establish a community college in the District of Columbia are another sorry chapter in Washington's orphan-like treatment at the hands of Congress.

The college should have been established at least a generation ago. But indifference and red tape on Capitol Hill, aided by some provincial opposition within the District itself, have kept this small dream from becoming a reality.

An end to the long years of frustration may be at hand. The Senate District Appropriations Sub-committee can make it so by approving funds for renovation of the old Securities and Exchange Building, as a temporary site for the Federal City College, and for 1963 operating expenses.

The people of the District should insist that the money be made available. The dividends certain to accrue from the establishment of a publicly-supported institution of higher learning are incalculable, for if there is any single means of redressing the broken dreams this newspaper has been describing for the last two weeks, it is thru education.

As President Kennedy's Committee on Public Higher Education in the District wrote more than three years ago: "We are building massive problems for he future — in welfare, unemployment, overty and crime — unless we provide a maximum of opportunity for the y of today to achieve the highest level education of which they are capable."

The Cases of the

GW Teacher Still Wants Post

By DAVID HOLMBERG

George Washington University Prof. Patrick Gallagher, continuing an academic hassle which began with his announced plan to turn in all A grades for one of his classes and all F's for another, said yesterday he felt Liberal Arts Dean Calvin D. Linton would refuse to accept his resignation.

Dr. Gallagher withdrew his plan to fight the grading system, but then turned in his resignation yesterday in protest over a memo on the episode written by Dr. Dean Linton which Dr. Gallagher said made him look "ridiculous."

Dr. Gallagher said yesterday the memo was "unnecessary and meretricious" and that Dean Linton is "acting without thinking."

"I think Dean Linton will think again," Dr. Gallagher added, "and when he does he will not accept my resignation."

Dr. Gallagher indicated he did not wish to leave the school and that his resignation was designed primarily to force Dean Linton to withdraw or alter his memo.

Dean Linton said the affair was "in the hads of the faculty," which endorsed the memo. He indicated, however, that there was no inclination at present to reconsider the memo or to refuse the professor's resignation.

The dean's memo said Dr. Gallagher's withdrawal of his plan was "gratifyng," adding that "this result has been achieved without any concession whatever by the faculty to Prof. Gallagher."

"This result," the memo said, "can be no less than a great gain for the students and the faculty, and the principles of orderly academic operation."

The memo noted that a faculty committee had been set up to look into grading practices "well before" Dr. Gallagher announced his plan.

GWU Prof Downgrades His Protest

A grade A controversy at George Washington University appeared ended yesterday when anthropology professor Patrick Gallagher abandoned plans announced last week to give 475 students in one class all top marks and flunk 100 students in another class.

The change was announced in a statement by an ad hoc committee of six University Senate members who met with the professor "in an atmosphere of mutual respect and affection" and won his agreement to give grades within the existing system and in the "usual fashion."

Meanwhile, a committee he helped create to explore possible revisions in the system held its first meeting this week, the ad hoc group said, and will continue its study. Mr. Gallagher confirmed the decision yesterday and said, "I just feel very, very happy about this."

He said last week he objected to the grading system on grounds it distorts the educational aims of a university.

INDEX

IN THE U. S. COURT OF APPEALS
FOR THE D. C. CIRCUIT

P. Carey
Appellant

v.

G. W. University
Appellee

CA-1221-67

MOTION
FOR
RECONSIDERATION

Question: Was case barred by Statute of Limitations?

1. U. S. District Court Dismissed on Defendant's Motion to Dismiss, after I was ill in court and could not protect my rights; continuance was not granted.

2. I hold the case should not have been dismissed for reasons set out hreeinafter in paragraphs 1 through 11.

Question 2: Was Fair trial on Motion granted, when I was suddenly ill in court room and halted in presentation of my side, and unable to protect my rights?

1. U. S. District Court did not grant continuance.

2. I say that was not fair trial.

Proper parties were not before the court as I was ill and not represented by counsel. I say court should have stayed the proceedings until I could ~~xxxx~~ present my side or make other arrangements.

Incorporated by reference here

a. 5½ Points filed herein 10/67

b. Opposition to Def. Motion to Dismiss filed herein 11/67

Comes now the Appellant, P. Carey, and moves this honorable court to to either remand or reverse this case.

Case (CA-3283-66) was dismissed by U. S. District Court.

No opinion was rendered.

Defendant entered Motion to Dismiss but never answered allegations inter-alia, fraud, deceit, and misrepresentation.

I was suddenly very ill at hearing on Motion to Dismiss, 4/4/67 and my rights were prejudiced. I was able only to ask permission of court to sit down, and almost fell to floor. Court did not grant continuance.

Proper parties were not before the court, when I was suidenly ill and unable to present my side or object or answer defendant's attacks.

21 A

It is my contention that a fraud was perpetrated on
me by defendant school when defendant made false unsupported
libelous, slanderous, derogatory statements
12/61 and read the statements over phone
to me (one letter dated on or about 12/17/61
12/27/61., several in 1962 and 3/13/63 and
several thereafter) see Exhibits) fraud was
perpetrated. I gave up my right to file legal action
12/61 for the false, unfounded, unsupported, false,
libelous, slanderous, derogatory remarks
in exchange for defendant's promise, word of honor that the
remarks were withdrawn and never uttered again.
I changed my position materially because I ~~xxxxxxxx~~
relied on their promise.
On 12/13/65 (1966) when I purchased
court transcript) I discovered defendant made
false representation to me in 12/61
because court transcript (C-578-64 in exhibits for C-3283-66)
discloses defendant's testimony under oath,
defendant made same false remarks and more, same libelous
slanderous statements as statements read to me
over phone 12/61 and subsequently mailed them to me
in letter. From that moment 12/13/65

21/2 B

12/13/65, I knew defendant broke promise and word of honor that libelous, slanderous, false statements were withdrawn, as in st tements read over phone, and subsequently sent to me through the mail.; that defendant was not sorry for error, and that defendant had no intention of correcting the false state ments, and irregularities

It must be emphasized that my promise to withhold legal action ~~xxx~~ 12/61 was predicated on defendant's promise, word of honor the the libelous, slanderous statements were withdrawn. I relied on defendant's promise that the statements were withdrawn, and I relied to my detriment. I changed my position materially. The court said in effect that where plaintiff changed his position materially, relying on defendant's oral promise, and unless oral contract is enforced, plaintiff will suffer loss, court will enforce contract, and defendant cannot plead statute of frauds.

Brewood v _____ D C Code 1951

Put in citation later _____.

I gave up my right to file legal action 12/61 in exchange for defendant's promise, word of honor that the derogatory, libelous, slanderous statements were withdrawn

2 1/2 C

Defendant broke promise, word of honor of 12/61 but it was concealed from me until 12/13/65 (1966 per Court transcript).

Court says a defendant cannot avail himself of the bar of statute of limitations if it appears he has done anything that would tend to lull plaintiff into inaction and thereby permit a limitation prescribed by the statute to run against him.

. Hornb v U S 31 App. D. C. 64; 14 App. Cases 696.

Fraud deceit, misrepresentation
-rady v Venes 76 U S App D C 47;128 F 2d 754 (1942)
Pope v Comart 243 F 2d 245; 100 U S App D C 745;

Southern Pacific Co v S 125 U S 247, 250 (1888).).
Above cases re the Fraud, deceit misrepresentation.

-rench of contract: 153 U S 540.

Libel, slander, defamatory statements from 12/61 - 12/65/66

Libel Cases 308 U S 130

Also Fraud: C v Paramount Pictures
92 U S App D C 347

206 F 2d 465 (1953)

Continuing tort/continuing contract: Carl. v de Ville

201 F 2d 202.

I contend that it cannot be said as the U. S. District Court's Order does that the complaint and Amended Complaint (C-3283-66) does not state cause of action.

I contend that the complaint and Amended Complaint does state cause of action

a. Chronological chain of events shows that cause of action was filed in time when irregularities were discovered.

b. Fraud, deceit, misrepresentation is bar to S. L.

c. 4/13/64 new offer of defendant took case out of statute; new offer or acknowledgment takes out of S. L.

e. Proper parties were not before the court.

I was suddenly ill and could not further participate in the proceedings 4/4/67. Continuance was not granted.

This prejudiced my rights.

e. Defendant did not answer the allegation of fraud and went on with irrelevant matters..

Court did not call attorney for defendant on irrelevant matters, or have him answer allegation of fraud, deceit, misrepresentation.

1. I contend that I was unskilled in university matters and therefore relied wholly upon the counsel, direction, advice and representations of the university.

2. They well knew of my inexperience, my handicap and my complete reliance upon them. They knew and registered me by filling out forms reading the fine print and advising about various requirements and procedures.

3. They knew because of my handicap, my method of performance in advance of all registration

4. To induce me to enter into the contract of enrollment in Spring, Summer of 1961 and Fall 1963 (and pre-registration direction in 1962 to attend until record was straight) from which damages ensued because of their negligence and irregular acts.

This allegation of discovery of the alleged fraud, contemporaneously with the filing of the complaint disposes of Defendant/Appellee's contention based on the statute of limitations, D C Code § 12-201 (1951) at least for purposes of the Motion to Dismiss.

C S v. Paramount Pictures 92 U.S. App. D. C. 347 206 F 2d 465 (1953).

P. Carey
461 H Street Northwest
Apt. 117
Washington, D C
apt 117
zip 20 001

Explanation:

C-251 was taught by Dr. W. Miller

1961.

I worked unusually hard on that course and
I want those credits. It is not fair
for them to misrepresent, and tell the
professor I was registered and then do an about
face six weeks later, after all that hard
work, and attendence through
bad weather, and climbing four
flights of stairs with heavy equipment.
The professor gave me certification on the course
and this was immediately filed with the school.
To date they have not entered the credits on my
school transcript.

In 1962 they told me to select class and
attend until they could get my records straight.
At end of class, prof. said he would give me the exam
if they completed my registration. I was ready willing and able
to take it then and had prepared for the highest
grade. All my efforts to complete registration
was ignored. In '1963, I learned of the
false statements and pointed t is out. Part of
the record was then corrected but they did not
complete the registration and all that expense to
accomplish was lost. Human relations, or
communications up, down and around, were not being
practiced. The errors still remain.

They represented to me in substance that that I was accepted as handicap student using special study equipment because of handicap and that in Econ-202 and 213 she had advance permission to use this method, yet when there was mal-function of equipment, they attempted to change my status from handicap using special study equipment to perform, to that of a regular student who needed no special equipment to perform. Then they said other students didn't need special study equipment and made libelous, slanderous remarks on two book reports, completion of which was halted by 1.

1. No. books due to wealness of school library (See note attached)

2. Mal-function of the study equipment which could not be repaired or replaced. (See dealer certificates on file with court in the exhibits).

They represented to me they withdrew the libelous, slanderous, derogatory remarks and gave word of honor and on this basis, I withheld legal action in exchange for their promise. I had papers all ready to sue but I relied on their promise and withheld legal action 12/61. I changed my position materially from that of a student with right to bring legal action, to that of student without that right, because I relied on their promise, word of honor.. I gave up right to sue in exchange for their promise they withdrew the libelous, slanderous derogatory statements made over phone and in letter.

On 12/13/65 (Ct. Transcript 1966) I discovered they broke all agreements, word of honor and discovered these were acts out of which claim for fraud, deceit misrepresentation, arose.

5. They knew or should have known that these representations were false

I relied on these representations and entered the contracts in 1961 - 1963, paid all that expensive tuition, spent large sums for supplies, books, equipment, preparation, and was not even given conferende in the emergency; was treated different from other students. - could get no books while the others even got them from the prof. They had none for me., for Econ 202 and 213.

Then there was

1. No books See attached (Washington Post article)

2. Mal-function of study equipment

there were no notes and no performance. And when I utilized and salvaged expected highest commendation for this effort, ~~she~~ was further reprimanded, libeled, slandered and blasted from further study; was refused conference over and over, round after round, while regular students experienced no roblem in getting conference;

Told me, "Other students did not need special equipment" and "What are you going to do with the credits?"

Performance was blocked:

1. No books. Due to weakness of school library

See Washington Post article by Martin Wyle Staff writer

Page B-2 in paper 7/1/67, Saturday

"Accrediting body list G W Needs Achievement"

..university has problems including a glaring weakness of the library, a large measure of faculty apathy.."

In my case, outside organizations assisted in getting part of list of needed books; school did not have them, the needed books for performance.

The 15 man evaluating committee of the Middle States Association of Colleges and Universities original accrediting body, visited the university in 3/67 found much to commend The major problem cited by the Committee was the library, called unquestionably one of the weakest elements in the university. It cannot support the instructional research program of a major university striving to be in the first rank."."

From the above it can be seen how my performance was blocked by lack of necessary books for top performance.

Outside organizations got part of my books but that was late. The other part never obtained.

6. I relied on their representations and

a. entered the contracts of enrollment in Spring and Summer 1961 and 1963 (and followed directions in 1962),

b. contract to take two oral exams in lieu of two book reports 1/62, and

c. contract to withhold legal action 12/61 in exchange for their promise, word of honor they withdrew libelous, slanderous, derogatory statements over phone, in letters, and conversation re two book reports Econ-202 and 213. together with promise the extenuating circumstances would be explained re the two U grades for the two courses, supra, in registering for next course.

7. When there was no special study equipment because of mal-function, there were no notes; when there were no books, due to sealness of school library, there was waiting period and performance was halted; and when I utilized and salvaged and expected highest commendation for this effort, I was denied conference, reprimanded and blasted as not performing as other students and refused conference and advice round after round in the emergency, while regular students were granted conference and loan of books from professor, a favor not afforded this student. I paid tuition as regular student and it was represented to me that I was accepted as handicap using special study equipment. As a handicap student, I relied on all these representations and entered all the above enumerated contracts.

8. I have now learned of the falsity of
of these representations and
9. By reason of ~~[illegible]~~ my reliance on the false
representations I paid over $150
in tuition and many times that amount for
books, supplies, equipment, text, expensive transportation,
assistance, advance preparation for talking
books for Econ-202 and 213
and over that amount for Econ-251, and
many more for 1962 course, and in 1963, many
manyexpenses for supplies books,
equipment, transportation, talking books,
advance preparation, text etc. I incurred all
these expenses and received nothing. Not even
conference in the emergency or fullfillment of
agreement that ~~[illegible]~~ registered as handicap; They
changed my status from handicap to that of
regular student and required/demanded that I perform
as regular student. I received severe reprimand
instead of commendation for salvage, and making
most of bad situation when no books due to weakness
of school library, and mal-function of study equipment.
School's weakness was construed as my failure

Machine failure was construed as my weakness and all future study blocked for that semester and all semesters, by professor of -con 202 and 213, although he promised to explain the extenuating circumstances and help me register for next course; he broke his word.
He gave two oral exams in lieu of two book reports, to replace the book reports. I accepted his offer, but he still reverted back to the two book reports, halted because of no books and no equipment.
Defendant who well knew the facts, deliberately misconstrued and twisted the facts and made false accusations. Even after advised, defendant failed to take even elementary investigation and willfully went ahead and mailed out the libelous, slanderous statements and reported them in conversation..
I paid all that heavy tuition and received nothing. Not even civil treatment. I was slandered, deceived and misrepresented; numerous irregularities etc..

Note: I paid tuition as regular student
and it was represented to me that I
was accepted as a handicap, using the special study
equipment; all went well until
Econ-202 and 213, 1961. Then I was libeled/slandered
and gave up right to bring legal action
in exchange for their promise they withdrew
the statements.

7. I relied on all these representations and
entered contracts of enrollment 1961 - 1963.

8. I have now learned of the falsity of the representations and

9. By reason of my reliance on the false representations,
I paid over $150 for Econ-202 and 213 plus expensive
transportation, books, text, supplies, equipment and
advance reading preparation.; over that amount for Econ-251
and the subsequent 1962 and 1963 courses, plus additional
expense for equipment and performance cost, and mountains of
expense to confer with officials re the rescission
on registration contracts. President Carroll told
them to register me; they told me I was registered;
they told the professor I was registered, yet they turned about face
said I was not registered, after all that work.
I paid all this and received nothing.

Not even a conference in the emergency, when there were 1. No Books, 2. Mal-function of special equipment. but received severe reprimand instead of commendation for salvage, and blasted from future study.by prof. of Econ-202 and 213, the authority who promised to explain the extenuating circumstances, and help me register.

Summary: I paid as follows:
By reason of my reliance on the false representations I paid large sum for tuition supplies and equipment and received nothi g, not even conferonce; I was slandered, libeled deceived and misrepresented, numerous irregularities etc. See Exhibits and there would be more, but they lulled into inaction 1961 - and I relied on their representations

The court says "A defendant cannot avail himself of the bar of statute of limitations, if it appears that he has done anythingthat would tend to lull the plaintiff into inaction and thereby paradox permit a limitation prescribed by the statute to run against him 31 App D C 64 H v G W 14 App Cas 696
Also def. cant plead S.F. if plaintiff has changed his position materially, relying on defendant oral contract.
D C Code.
Also S.L.runs from breach

I was slandered, libeled by false statements

over phone, in letters, in conversation and even

when I advised of the errors, they still

sent out copies, and said same and more.

All agreements broken; all promises broken.

10.
They deceived and misrepresented.

10. There are thus alleged in this cause cause of action,

all of the elements of a fraud complaint.

Southern Development v.

325 U.S. 247
145 U. S. 247
125 U.S. 247,250 (188)

I hold the circumstances constituting fraud"

have been stated with sufficient particularity to

prevent the cause of action against a motion to dismiss

Rule 9 2d 2b Federal Rules of Civ Proc.

Brady v. Games 76 U.S.App D C 47, 128 F 2d 764 (1942).

I HOLD THAT THE MOTION TO DISMISS SHOULD

NOT HAVE BEEN GRANTED AS TO

A. chronological chain of events
b. Fraud deceit and misrepresentation.

I contend it should be remanded to U.S.District

Court for further proceedings or reversed.

P. Court

There are thus alleged in this cause of action, all of the elements of a fraud complaint.

Southern Development v. S

125 U. S. 247, 250 (188).

I think "the circumstances constituting fraud" have been stated with sufficient particularity to protect my cause of action against a Motion to Dismiss.

Rule 9 ?d?b Federal Rules Civil Procedure

76 U. S. App D C 47

128 F 2d 754 (1942)

Brady v. Gamos.

I hold that the motion to Dismiss should not have been granted as to a. b. c etc above

a. Chronological chain of events, irregularities etc

b. Fraud, deceit, misrepresentation etc.

c. Proper parties were not before the court

as I was suddenly very ill and could not participate,

to protect my rights

I contend it should be remanded to U. S. District Court for further proceedings or reversed

Page v. Comert 243 F. 2d 245; 100 U. S. App D C/39

It is my contention that a fraud was perpetrated on me by defendand school when defendant made false, unsupported libelous/slanderous derogatory statements over phone and in letter in 12/61 12/12/61. I gave up right to file legal action then for the unfounded unsupported, false, libelous, slanderous, derogatory remarks in exchange for defendant's promise, word of honor that the remarks were withdrawn and never uttered a ain.. I changed my position materially (from student with right to bring legal action to that of student without that right in exchange for their promise libelous, slanderous statements were withdrawn), because I relied on that promise.

On 12/13/65 (by means of court transcript prepared late in 1966) which I purchased at great expense), I discovered that defendant made false representation to me in 12/61 (court transcript of 12/13/65 defendant made same and more libelous, slanderous statements, same as letter read to me on phone and mailed to me thereafter, in spite of warnings that it was false and not to send it, and in suite of warnings that I would sue. From that moment 12/13/65 (Court transcript of 1966), I knew defendant broke agreement and word of honor that libelous, slanderous, derogatory statements were withdrawn; and that all his other promises were also broken.

Contention continued:

It must be emphasized that my promise to withhold legal action in 12/61 was predicated on defendant's promise word of honor, that the libelous/slanderous remarks were withdrawn. I relied on defendant's promise that the remarks were withdrawn I changed my position materially relying on their promise, and to my detriment. Court says in effect, when plaintiff changes position materially relying on defendant's oral promise, and unless oral contract is enforced, plaintiff will suffer loss, court will enforce contract.

I gave up my right to file legal action 12/61 in exchange for defendant's promise, word of honor that the derogatory, libelous, slanderous remarks were withdrawn. Court says defendant cannot avail himself of of bar of statute of limitations if it appears he has done anything that would tend to lull plaintiff into inaction and thereby permit limitation prescribed by statute to run against him. 31 D C App 64, 14 App Cas. 536.

See also case [illegible] v put in citation later

Defendant cannot plead statute of frauds.

See Part II Opposition to Motion to Dismiss as I filed 10/67 in answer to defendant's motion to dismiss. Defendant made determination on arbitrary basis and rescinded my registration in 1963, and left erroneous remarks to hurt me; record, libelous, slanderous, derogatory remarks to [illegible] the errors have not yet been corrected and I have been damaged.

Facts:
2/29/64 C-5265-64 Small Claims and Concillation

This was done to clear up the two U grades issued by same professor in Econ 202 and 213 when there were 1. no books, 2. Malfunction of special study equipment; professor promised to explain extenuating circumstances and help me register in 1961-62; later I learned he spoke against me

instead of speaking for me.

4/13/64 Defendant Motion to Dismiss was denied

in C-576-64

4/13/64 After their motion to dismiss was denied

defendant school made offer; this offer

took case out of bar of statute of limitations;

201 F 2d 202 Garf. v. Needle continuing

contract takes case out of statute; new acknowledgment

new offer.

Defendant said we going to answer and case wont come up

until way next fall. that was 4/13/64; case did not come up

until 12/13/65, like they said, way next fall under another judge.

12/13/65 Trial - could not hear or see clearly and depended on judge

but there were too many requests for repetition;

judge could not hear either;

1966 I purchased the expensive transcript and learned for first

time what defendant had said; when I discovered this

a. I found professor did not keep his promises,

word of honor: he did not speak for me as promised

and instead he spoke against me. In 1961-62 he had promised

he would explain extenuating circumstances and help me register.

His testimony 12/13/65 as shown by court transcript

discloses he did not keep his promise to speak

Repeating last two lines that ran off page:

When I purchased and read transcript, I learned professor broke all his promises:

a. He did not speak for me as he promised earlier at school in 1961 when he said he would explain the extenuating circumstances and help me register for next class. See the testimony of 12/13/65 in Court transcript. No where does he explain extenuating circumstances as promised. Instead he spoke against me; said xxxxx same and more slanderous libelous statements.

b. Said he gave "Incomplete" and transcript of school shows no "Incomplete"

c. Said he gave only one oral, when his letter of 1/17/62 and others clearly describe his offer and lists the subjects covered.. No where does he admit he was wrong on these two items and his testimony was under oath.

A court clearly shows he is wrong.

Decision was on "grades were not arbitrary and capricious" when no such allegation was made. Determination was arbitrary and capricious and decision did not cover that; if it had I would have won; complete misunderstanding by all concerned; attorney wrote my findings of fact, s c par. 4, and used same allegation when no such allegation was made but grades were arbitrary and capricious. 2nd request for this correction has been ignored. Court record shows

human Relations and Communications up, down, around etc., are strongly emphasized by universisites and colleges as a means of avoiding controversies and problems.
Yet when there was need for these two theories there in therir own school, there were none. To use an old expression "The school does not "practice what they preach."
I tried in every way to talk this over prior to suit but conference was denied. I even tried C- 5265-64 filed 2/ 29/64 to get defendant to discuss the problem prior to formal proceedings as I was sure this school of high standards, the one I selected for higher, advanced study, would correct and apologize, once they listened and understood.
They ifnored all efforts. At formal hearing they gave false testimony under oath as shown by evidence of record. Request for this correction has been ignored.

All the way throughout proceedings I felt they would be forthright when they learned of error but they adhered to errors and have resorted to unfair tactics to sustain the errors

~~Unfounded~~

Evidence of record clearly shows their testimony under oath 12/13/65, as shown shown in court transcript (1966) is incorrect, and the findings of fact are in error. This has been pointed out several times and request for correction denied:

1. Defendant answered allegation never made, i.e., that grades were not arbitrary or capricious.
2. That professor gave incomplete
3. That professor gave only one oral exam.

All those statements under oath are false and evidence before the court clearly shows

1. my allegation was that determination to rescind registration was arbitrary and capricious

2. That there was no incomplete on school transcript

3. That professor gave two oral exams which replaced two book reports, as shown by prof letter of 1/17/62 and subjects covered are carefully listed over professor's signature. Yet decision was rendered on their incorrect statements under oath. Findings of fact also written up by this attorney were the same and incorrect. Yet defendant, in court on 4/4/67, on hearing on motion bragged about this case, C-570-64 in which decision was rendered on false statements under oath as born out by evidence of record before the court.

and that in Econ-202 and 213 prior permission was
obtained for special study method
yet when there was mal-function of special equipment, ~~the~~ I
received no consideration and they attempted to change
my status from that of a handicap using special equipment
to that of a regular student who needed no equipment
for performance and said "Other students do
not have to use study equipment", and " What are you
going to do with the credits?)
They made slanderous/ libelous statements.
They represented to me that they withdrew
the libelous/slanderous derogatory statements and
on this condition I agreed to withhold legal
action. I had papers all ready to sue.
They also represented they would explain the extenuating
circumstances and help me register for next class.
They represented to me that two oral exams were in lieu
of, replaced the two book reports on which progress was
blocked because of
1. No. Books (see attached) due to weakness of school
library, and
2. Mal-function of my study equipment.
They represented that I was registered in Econ-251 and told prof.
my class card would be sent later; when he
went to turn in grade they then told him
I was not registered.
They represented to me they would register me for

Deceit:

Defendant told me

1. The libelous/slanderous statements were withdrawn.

2. That he would call and help me register for next class.

3. That he had called as promised and explained

the extenuating circumstances which resulted

in my two low grades in his courses

Econ 202 and 213 in 1961, i.e.,

1. no books (due to weakness of school library, and 2. Mal-function of my special study equipment).

3. Made offer of two oral exams in lieu of

the two book reports due in 1961 on

Econ-202 and 213;

5. This offer he explained in letters around 1/15

and 1/17/62 and listed the subjects covered

for each oral exam; I accepted and took the two oral exams which replaced the two papers previously due on Econ-202 and 213.
7. Defendant accepted me as handicap student and in advance knew of and approved my method of study, registered me for the courses, and I paid the tuition. Thereafter, defendant said "Other students did not need study equipment, and asked what I was going to do with the credits; refused conference in the emergency when I could not get the books from library, refused counsel, advice and I was left to perform without the necessary books; Students consulted were able to get books from professor or other sources;

Outside organization got book for me but this was late, and the other books never obtained. This school library weakness, professor construed as my weakness, which together with mal-function of study eq. halted my performance.. Status as handicap was changed and defendant demanded I perform as regular student. All representations, promises, broken.

Note: Read the defendant's statements
on 12/13/65 in court transcript on file.
That does not sound like he was explaining
the extenuating circumstances which caused
my two low grades, as he promised me faithfully
he would do. , in 1961 and 1962.
Instead, he took the stand and
made more derogatory slanderous remarks.
He did not explain the extenuating circumstances
at all, as he promised.
He kept this in the background from
1961 to 1965.
In 1961, he gave me his word of honor that
the libelous/slanderous remarks were withdrawn.
But 12/13/65 at trial C-578-64
he said the same and more libelous/slanderous
remarks, and there was not a trace of
the promised explanation of the extenuating
circumstances which resulted in my two
low grades in his two courses.
I was deceived, slandered, libeled,
misrepresented.

On 4/4/67, Hearing on Motion to Dismiss CA-3283-66 and when Court asked defense counsel to give my educational background, he recited only part; although he is familiar with far more of it than he stated and should have been proud to list my accomplishments.

I could not answer his personal attacks, or object to his many irrelevant statements. I became suddenly ill and my side of the case was halted and I had time only to ask permission to sit down before I fell - clerk brought chair. Judge did not grant continuance and my side has never been heard

My rights were thus prejudiced as I have never been heard on Motion to Dismiss.

I contend I should be given opportunity to be heard on motion to dismiss, or case should be reversed as there was fraud

Court transcript of this hearing should be corrected to read

"Defendant's motion to dismiss was denied 4/13/64"

instead as it now stands it reads reads "my motion" and that is in error.

Also court transcript should show the place where I became suddenly ill.

This is important. I have requested correction.

Defendant knows beyond any doubt of my sincerity and earnest perseverence to get my school credits, as shown by my persistence here. Attorney should read the file and then decide who is guilty of hartassment. Why does he say this? Is it to distort the true issue before the court? The dictionary has not defined "Harrassment" as a legal term.

Defendant wants my case dismissed and filed defense of statute of limitations.

Court says

"A defendant cannot avail himself of of defense of statute of limitations, if it appears that he has done anything that would tend to lull the plaintiff into inaction and thereby permit a limitation prescribed by the statute to run against him." 32 App. D.C. 64 14 App Cas. 6 14 App. Cas. 696..

Statute runs from time of discovery of breach
from time of discovery of breach 200 F 2d. 746
91 U. S. Appeals D C 287.

When I read court transcript in 1966 I learned first hand statements of the Deans, and in letters the statements of the other Deans:

Dean Huth said he doubted if I could do even under-graduate work.

and showed a false F grade; after all those

graduate credits I had accumulated, he said such

a thing in 1963 and repeated it after

error was pointed out and has never retracted. How would you

like that after enduring all weathers,

climbing 4 flights to class with

heavy equipment plus typewriter on exam day? Hung up phone

when learned it was I; refused to answer

letters; refused to see me in person;

blocking of communications completely.

Human relations not around.

Dean Angel rescinded registration and then said "I didn't

realize you had so many graduate credits and his other remarks and

after that saying "could not accept her on such a

record When he admitted he did not
realize I had so many graduate credits, after his determination to rescind, why didn't he make new determination?; Why did not the attorney be forthright and point this out to him.? Surely one should correct such a gross error! It is not my "such a record", the reverse is the truth.

Dean Burns should have explained the extenuating circumstance as he promised me he would do: 1 No books;
2. Mal-functior of the study equipment;
Defendant failure was construed as my failure, and
all those graduate credits,
ignored and this student labotomized one
fell swoop. Defendant knew of dependence
on machine before I ever registered and agreed.
See Points 24 - 26 filed 10/2-4/67.

34B

Concealed breach by defendant school was concealed until 12/13/65 (Court transcript 1966)

I tried in every way to get defendant school to confer. I pointed out errors by phone, letters, and personal visits. They ignored everything. Further efforts resulted in their hanging up phone, ignoring letters, and refusing to see me when I called in person. I felt, given a chance they would be anxious to correct, as il figured it is human to err and tried the Human Relations method all the time confident they would listen. Then they blocked communications. Left the errors. There seemed to be confusion in the school. Two sets of records. My sincere efforts were further stifled when others took up their song and repeated t eir derogatory defamatory remarks. Human Relations, which I felt they would want me to use on them first, fell and they trampled, stomped, pulled apart my carefully built up accomplishments.

After I was willing and agreed to withhold legal action (for the libel/slander derogatory statements ofs of 12/19 and subsequent dates) and withhold legal action in exchange for defendant's promise the statements were withdrawn and never uttered again, and explain the extenuating circumstances which caused two low grades, then defendant did about face and said same was here on 12/13/65 as evidenced by court transcript of record purchased in 1966. The old injury was torn, the agreement broken, word of honor broken, and I suffered further.

Incorporated by reference are 54 points filed 10/2-4/67.

See Point 24 through 26 especially.

I have had publications with my own by-line. How many of your professor or students have that record? I have paid for every penny of my education and I have tried to protect my accomplishments and have earned commendation. I have accomplished the impossible, one could say. No commendation is forth-coming to date.

Incorporated by reference:
1. Points filed 10/2-4/67
2. Opposition to Def. Motion Dismiss filed 11/22-22/67

3 1/2

34 D

In spite of fact that no conference was granted as requested for explanation, no further efforts at investigation were undertaken prior to issuance of these statements It is clear this conduct would suffice to satisfy the "actual malice" standard of "New York Times"

The "Notice to Defendant" had constituted furnishing necessary "Mental Element" evidence of record clearly shows "actual malice" by defendant school in my case. This proof is in several places. For instance, I advised of the errors and the errors were ignored and left uncorrected.

That is the defamatory statements were made in 1961, and 1963 and 1965 with knowledge they were false, or with reckless disregard of whether false or not.

376 U.S. At 280.

The present cases involve not only public officials.

Repeating over phone and in letters after being warned it is false is indeed unreasonable, reckless conduct.

P. Cary
411 Hart, Jr. Bldg.
Apt. 117
Washington D.C. 20001

IN D E X

CASES:

51

Cases Continued

Inforporated by reference are cases in

1. Complaint

2. Amended Complaint

Memo of 4/4/67; 4/5/67

4. Motions for new Trial; amended

5. Motion for Reconsideration

6. Motion under Rule 60 b

7. Motion under Rule 6 b

8. And all citations in all other motions etc., filed in C-3283-66, U. S. District Court.
(that is Rule 9 to F. R. Civ. Procedure)

9. Cases cited in C-3451-67 D C Appeals Courtand S. Cts and Conciliation Br. Branch C-25014-66 also included).
These papers on file with the court.

11. Incorporated by reference

are all cases cited in Opposition to Defendant/ Appellee's Motion to Dismiss.
This opposition was filed 11/22 - 11/27/67

Incorporated by ref erence all other cases in C-21221:
a. Opposition to Def./Appellee's Motion to Dismiss - 11/22 - 11/27/67; Points and Authorities 10/2/67.

52

fraud alleged in complaint for damages predicated on fraud that there was discovery of the alleged fraud contemporaneously with filing of the complaint, precluded dismissal of complaint based on bar of statute of of limitations for urpose of dismiss complaint for failure to state cause of action Pg. v Comert (1957) 243 F 2d 245 243 F 2d 245, 100 U S App D C /39)

Brady v Gunes 76 U S App D C 47 128 F 2d 754 (1942)

Cases:

Special Note: 383 U. S. 130 includes many cases and all of the pertinent cases are incorporated herein, including decision in 383 U. S. 130.

Also
Incorporated by reference are:

1. Points filed 10/67
2. Opposition to Def. Motion to Dismiss filed 11/67
3. All papers filed in C-3233-66

Case 159 U. S. 540 court said in effect
where defendant is guilty of such a breach
as is here attributed to the defendant,
plaintiff may treat contract as breached and recover
in damages equal to that
he would have received, had the contract had been
performed.

Curtiss Pub. Co. v Butts
388 U. S. 130

Such savage remarks are in category with
expletives and the keeping of wild animals.
Fill in citation later: __________
cases:

7 b. Garfinkles v. Needle, 201 F 2d 202

This is on continuing contract - continuing right.
; acknowledgment of

claim takes it out of statute.

Cases Continued

8. A defendant cannot avail himself of thethe bar of statute of limitations if it appears that he has done anything that w ould tend to lull the plaintiff into inaction and thereby permit a limitation prescribed by the statute to run against him H. v G W U 31 App D C 64; 14 App Cas. 696).

9. To toll the statute there must be some trick breach or connivance intended to exclu. such and prevent discovery of cause of action by use of ordinary diligence D C App 1953.

82 A. 2d 699 (Concealed trick breach

10. Statute of limitations runs from time of discovery instead of at time of breach of contract when there is ..fraud. [illegible] v. [illegible] Co. [illegible] 1953). 200 F 2d [illegible] 746;200 F 2d 746; 91 U. S. App. D. C. 237,)

11. Brewood v [illegible] cited in later - citation re Oral contract; court will enforce when plaintiff changed position materially depending on oral contract - statute of frauds not apply.

56

N. Y. Times v. Sullivan 376 U.S. 254

Defendant acted in reckless disregard of whether the article was false or not

351 F. 2d 71 3 723.

Allow recovery on showing of intent to inflict harm or even the culpable negligent inflicting of harm, rather than the intent to to inflict harm through falsehood.

351 F. 2d 723.

Civil Libel are immune from general constitutional scrutiny. Where plaintiff is not public official, counsel can look solely to to the defenses provided by state libel law. Tehany v. Showt,

382 U.S. 406, 409

382 U. S. 406, 409 n 3;

Linkletter v. Walker, 381 U.S. 618, 622,629

Griffin v. Calif. 380 U.S. 609;

White v. Maryland;, 373 U.S. 59.

See also Ackerman U. S. 340 U. S. 193,198.

58

In Robinson and Baldwin

165 U.S. 275,281, the court

said, Thus the freedom of speech and of the press, ..l

does not permit the publication of libel,

blasphious or other publications

injurious to public morals or private reputation".

This was repeated in several cases including

Beauchins v Ill. supra n 7

See AARb. Minn. 283 U.S. 697, 715;

Chaplinsky v. N.H. 315 U.S. 568.

Seee.g.

See e. g. Sweeney v Patterson 76 U. S. App D.C. 23

128 F 2d 457,457;

Hendrix v. Mobile Reg. 202 Ala. 16,

81 F.o So 558

"We are told that that the rule that permits satisfaction of the deep seated need for vindication of honor is is not a mere historic relic but promotes the law's civilizing function of providing an acceptable substitute for violence in the settlement of disputes,"

Afro. American Pub. Co. v. Jaffe - U. S. App. D.C. -366 F 2d 649, 660.;

"Newspapers magazines and broadcasting companies are businesses conducted for profit and often and often make very large ones. Like other enterprises that inflict damage in the course of performing a service, highly useful to the public...they should pay the freight; and injured persons should not be relegated to remedies which (make collection of of their claim difficult or impossible~~xxdxxxxxxx~~ difficult or impossible.."

Buckley v. New York N. Y. Post Corp. 373 F 2d 175,182.

61

Adler v. Fla. 365 U.S. 39,

Freedom of speech does not include a freedom to trespass.

Equitable relief against defamation and injury to persons., 29 Harv. L. Rev. 640

48 Stat. 82, as amended

48 Stat. 82, as amended 15 U.S. C 77l: tantalizing; negligence, misstatement

18 U.S.C. 1341 1341.

See Trayloi Eng. and Mfg. Co. vs Ntl. Constr. Corp..

45 Del. 143, 70 A 2d 9

Restatement Tort 525 D C (D C;

Nash v. Minn. Title Ins. and Tr. Co.

163 Mass. 574, 40 N E. 1039

40 N E 1039

(Negligent Misrepresentation)

(Negligent Misrepresentation)

See Cropper

See No. 1 Cropper and James, The Law of Torts

No. 520. page 150

The history of libel law leaves little
doubt that it originated in special soil.

"Early libel was primarily a criminal remedy, the function of which was to make punishable any writing which tended to bring into disrepute, the state, established religion or any individual likely to be provoked to a breach of the peace, because of the words. Truth was no defense in such actions..."
The same truthful statement might be the basis of a criminal libel actions
See Commonwealth v. Clapp No. 4 Tyng 163 (Mass; see generally V. Beder, The history and theory of law of deformation No. 3 Col. L. Rev. 546.

"Some privileges..such as the fair comment

privileges are recognized only as conditional privileges and may be vitiated

vitiated by proof of actual malice."

See generally, Prosser, the law of Torts

109, 110

Improper conduct is a factor

Improper conduct element is a factor "It is the conduct

element therefore, on which we must focus...to

resolve the anthesis between civil

libel action and freedom of expression. Much

harm can be done by circulation of defamatory falsehood.

~~xxxxdix~~

In New York Times Case the court was adjudicating in an area which was close to seditious libel and history dictated extreme caution in imposing liability."

Position is such that the public had an independent interest in qualifications and performance of the person who held it."

Rosenblatt v Bauer

86 Supra at 86.

"Calculated falsehood" placed this student at odds
with with the promises of the high standards of the university which attracted
attracted me to their school in first place. and with the orderly manner
economics or social change
is to be effected.."
Garrison v L. A. 379 U S 4,
379 U S 64, 75;
that is to say officials were permitted to recover
only when they could
prove that the u publication involved
was deliberately falsified , or
published recklessly, despite publishers
awareness of probable falsity

The school officials were not entitled
to a special privilege protecting utterances
against accountability and libel."
"We are prompted therefore to seek guidance for the
rules of liability which prevail in our society with
respect to compensation of persons injured by the
improper performance of a legitimate
activity by another."
According to the interpretation of these
guiding rules, a departure from
the kind of care society may expect from
a reasonable man performing
such activity
activity, leaves the actor open to a judicial
shifting of laws.."

68

Cases Continued:

Lord Hardwick

Chesterfield v Janson No. 2

Fraud - subject of the bargain

"Such as no man in his senses and not under delusion
would make
on the one hand and no honest or fair man
would accept on the other.
"It is as much against equity
and good conscience to take advantage
of a man's weakness or necessity
as of his ignorance."

Fraud voids a contract
sb initio

Ans. Contr. 162:

No. 1 Blackstone 465:

The public interest in education in general and in the conduct of student relations and affairs of educational institutions in particular, justifies constitutional protection of of discussion of persons involved in it, equivalent to the protection afforded discussion of public officials.

"We are urged ... to recognise society perv. strong interest in preventing and redressing attacks upon reputation reputation"

a"Important social values which which underlie the law of deformation." Rosenblatt v. Bauer, supra at 86. (Stuart J. concurring

The basic theory of libel has not changed and words defamatory of another are still placed in the same class with the use of explosives or the keeping of dangerous animals.'"

The finding of falsity alone should strip all protection from the author.

"We need or there is need for the institution of a system of censorship. There is always the inevitibility of some error in the situation presented in free debate."

2-Cases

7.
Ga. Code An. 105709 (6)

provides:

"Privileged Communications. -

The following are deemed privileged communications:

" No. 6 Comments upon the acts of

public men in their public capacity and

with reference thereto.""

This privilege is qualified by Ga. Code

Ga. Code Ann. 105-710, which

provides:

"Malicious use of privileges. -

In every case of privilege communication,

if the privilege is used merely as a cloak

for venting privite malice and not bona fide

in promotion of, and not bona fide in promotion

of the subject

for which the privilege is granted,

the party defamed shall have a right of

action."

72

Appellee did not file Opposition
until 11/15/67 and was late.

Appellee was out of time.

p emm